



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

August 31, 2023

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Francis Twum**
Tax Registry No. 939617
Housing PSA 7
Disciplinary Case No. 2022-26587

The above named member of the service appeared before Deputy Commissioner of Trials Rosemarie Maldonado on January 13, 2023, and was charged with the following:

DISCIPLINARY CASE NO. 2022-26587

1. Said Police Officer Francis Twum, while off-duty and assigned to Housing Bureau, PSA 7, on or about April 24, 2022, failed to request the response of a patrol supervisor, precinct of occurrence, during an off-duty incident in which he was involved.

P.G. 212-32, Page 1, Paragraph 2

**OFF DUTY INCIDENT
INVOLVING UNIFORMED
MEMBERS OF THE SERVICE**

2. Said Police Officer Francis Twum, while assigned to Housing Bureau, PSA 7, on or about April 24, 2022, failed to remain motionless and obey all directions given by other officers during an off-duty incident.

P.G. 221-20, Page 2, Paragraphs 3 and 4

**CONFRONTATION
SITUATIONS**

3. Said Police Officer Francis Twum, on or about April 24, 2022, while off-duty and assigned to Housing Bureau, PSA 7, failed to have his shield and produce his shield when requested to do so to establish his identification.

A.G. 305-12, Page 1, Paragraph 2

**SHIELDS/NAMEPLATES/
IDENTIFICATION CARDS**

4. Said Police Officer Francis Twum, on or about April 24, 2022, while off-duty and assigned to Housing Bureau, PSA 7, engaged in conduct prejudicial to the good order, efficiency, and discipline of the Department in that said officer was discourteous to various individuals known to the Department by cursing, screaming, and engaging in a verbal altercation with said individuals.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT


5. Said Police Officer Francis Twum, on or about April 24, 2022, while off-duty and assigned to Housing Bureau, PSA 7, engaged in conduct prejudicial to the good order, efficiency, and discipline of the Department when said officer failed to immediately identify himself as a Member of the Service after being involved in an off-duty incident. (As amended)

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

In a Memorandum dated February 7, 2023, Deputy Commissioner Rosemarie Maldonado found Police Officer Francis Twum guilty of all Specifications in Disciplinary Case No. 2022-26587, after Police Officer Twum entered a plea of guilty to all Specifications. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

After reviewing the facts and circumstances of this matter, I agree with the Deputy Commissioner of Trials, that a mitigated penalty is warranted. However, in consideration of the unique and compelling mitigating circumstances of this matter, I direct that a penalty of five (5) vacation days be imposed.


Edward A. Caban
Police Commissioner



POLICE DEPARTMENT

February 7, 2023

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2022-26587
Police Officer Francis Twum	:	
Tax Registry No. 939617	:	
PSA 7	:	

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Rosemarie Maldonado
Deputy Commissioner Trials

APPEARANCES:

For the Department:	Maria Paolillo, Esq. Department Advocate's Office One Police Plaza, Room 402 New York, NY 10038
For the Respondent:	Craig Hayes, Esq. Worth, Longworth & London, LLP 111 John Street, Suite 640 New York, NY 10038

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

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A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on January 13, 2023. Respondent, through his counsel, entered a plea of Guilty to the charged misconduct and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having examined all of the evidence in this matter, the Tribunal accepts Respondent's plea and recommends that he forfeit 10 vacation days.

SUMMARY OF EVIDENCE IN MITIGATION

It is uncontested that on April 24, 2022, Respondent's five year-old daughter suffered what he described as a "pain attack" caused by [REDACTED]. He and his wife brought the child to North Central Bronx Hospital for treatment. Respondent estimated that his child's painful condition required treatment in a hospital approximately twice a month (Tr. 17-18). That morning, Respondent left with his family wearing a button down shirt and black sweater over his off-duty firearm, which was secured in a pancake holster on his hip. (Tr. 19)

Hospital staff led Respondent and his family to an examination room where they waited for a physician. However, after hospital staff noticed Respondent's firearm, they alerted hospital security and called 911 for assistance. NYPD officers responded to the call as a "gun run."

Respondent and his family had been waiting in the examination room for approximately 35 minutes when eight police officers approached the hallway outside that room. (Tr. 20) Body-Worn Camera video captured the exchanges that followed. When Respondent's daughter observed the uniformed members of service in the hallway she stated, "Daddy, you're a police officer too." (Dept. Ex 1.1 at 08:24:51) An officer heard the comment, entered the room, asked Respondent whether he was "on the job" and requested his NYPD identification card. In response, Respondent asked, "Who called?" (*Id.* at 08:25:02-08:25:05; Tr. 21) They repeated

this exchange and as Respondent spoke he gestured with his left hand. Two officers held Respondent's wrists as he moved his left hand to retrieve his identification card. (Tr. 23, 38) Within *twenty seconds* of the officers' initial approach, Respondent had verbally confirmed that he was a member of service assigned to PSA 7, that his NYPD identification was in his pocket, and that he was carrying a firearm. (Dept. Ex. 1.1 at 08:25:05--08:25:25). As the officers continued to hold Respondent's wrists, one member of service retrieved Respondent's identification card from his left pant pocket. (Dept. Ex. 1.1 at 08:25:30-08:25:52; Tr. 23) Respondent was not asked to produce his shield, nor did he produce it voluntarily. (Tr. 31, 36-37)

After the officers verified Respondent's identification, they apologized to him and his wife. The officers explained that they had received two calls reporting a man with a gun in the pediatrics unit. (Tr. 24) Respondent repeatedly stated that hospital staff should have approached him directly. The officers replied that there had recently been a stabbing at the hospital and that the staff was "on edge." The officers then asked Respondent to step into the hallway where additional officers, as well as nurses and hospital security, were gathering." (Dept. Ex. 1.1 at 08:26:00-08:27:26).

The hospital security sergeant informed Respondent that she called 911 based on concerns brought to her by the nurses. She added that because hospital security did not carry firearms, they could not approach an armed visitor. When she apologized, Respondent cut her off, and started yelling that, "nobody came to see my kid, we've been sitting here for a fucking half hour now." He went on to say, "Now I'm fucking pissed now shut the fuck up." He also proceeded to call the hospital staff "fucking assholes." Less than 50 seconds after raising his voice, Respondent's wife and the officers in the hallway ushered Respondent away from the

hallway and back to the patient room with his daughter. (Dept. Ex. 1.1 at 08:27:32-08:29:32; T. 24, 33, 35)

At trial, Respondent acknowledged that he was wrong in how he spoke to hospital staff. (Tr. 25, 38) Respondent testified that he had been concerned about his wife and daughter. (Tr. 22) When asked why he “cursed” at the hospital employees, Respondent stated:

The reason why I did it, because I brought my child to the hospital to be seen, and when we first got to the hospital I—I informed them the reason why we were there due to the seriousness of my – of my child’s illness, and I was – I [was not] seen by anybody in the hospital until the police showed up. (Tr. 24-25)

PENALTY

In order to determine an appropriate penalty, this tribunal, guided by the Department’s Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent’s employment history also was examined. *See* 38 RCNY § 15-07. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on July 11, 2005, pled Guilty to the subject charges. The Department Advocate argued that there are multiple aggravating circumstances in this case which warrant the forfeiture of 35 vacation days: an aggravated penalty of 20 vacation days for failing to promptly obey an on-duty officer and identify himself as a member of service; an aggravated penalty of 10 vacation days for discourtesy; and, the presumptive penalty of 5 vacation days for failing to notify a patrol supervisor. This tribunal strongly disagrees with this harsh penalty recommendation.

First, within *twenty seconds* of being approached by the responding officers, Respondent confirmed that he was a member of service, that his identification card was in his pocket and that he worked at PSA 7. The video footage confirms that there was some hesitation in his responsiveness, and that instead of providing an immediate answer he questioned who had called the police. This hesitation, however, was very brief and not surprising given the context in which it occurred. Respondent was understandably distressed that he had been waiting over 30 minutes for a treatment that would relieve his five year-old child's pain. Being approached by eight officers in a pediatric hospital room was, at best, unexpected and perplexing. Given this stressful situation, a delay of less than a minute does not warrant an aggravated penalty, particularly when Respondent has admitted fault and taken responsibility for his actions. Accordingly, a mitigated penalty of five vacation days is appropriate in this case.¹

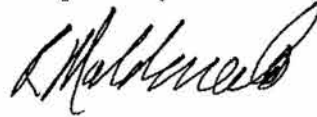
Second, although Respondent's outburst toward hospital staff was unquestionably gratuitous and inappropriate, he was a distraught parent who believed his daughter's pain treatment had been unfairly delayed until the police arrived. Therefore, on balance, Respondent's cursing and hostility, although brief in duration, warrants the presumptive penalty of five vacation days.

¹ The Department Advocate served a number of charges related to Respondent's failure to identify himself in a timely manner, including his failure to remain motionless, failure to obey and order, failure to produce his shield and failure to report the incident to a supervisor. Under these particular circumstances, however, increasing the penalty to address each of these cited shortcomings would violate the following Matrix guideline:

If the same underlying act(s) of misconduct support multiple definitions of proscribed conduct or support alternative theories of prosecution, then a single penalty will be applied. Concurrent penalties may be appropriate when misconduct includes minor technical infractions, or when the effort to maintain a balance between punishment, deterrence and remediation is undermined by consecutive penalties. The totality of the circumstances will be considered in order to maintain the efficiency of the disciplinary system and to ensure a just outcome - (Disciplinary Guidelines, Calculation of Penalties, Pg. 13)

Accordingly, this tribunal recommends the forfeiture of 10 vacation days as the appropriate penalty.

Respectfully submitted,



Rosemarie Maldonado
Deputy Commissioner Trials

DISAPPROVED

AUG 31 2023

EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Deputy Commissioner Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER FRANCIS TWUM
TAX REGISTRY NO. 939617
DISCIPLINARY CASE NO. 2022-26587

Respondent was appointed to the Department on July 11, 2005. On his three most recent annual performance evaluations, he was rated "Exceeds Expectations" for 2019, 2020, and 2021. Respondent has been awarded five medals for Excellent Police Duty.

In 2011, Respondent forfeited 30 vacation days after pleading guilty to (i) engaging in off-duty employment without authority and (ii) being absent from his residence without permission from the District Surgeon, and/or the medical sick desk supervisor.

For your consideration.

Rosemarie Maldonado
Deputy Commissioner Trials